**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 723 OF 2004**

Raghunath Krushna Pawar & others. ..Appellants.

Versus

Shivaji Ananda Kundale & others. ..Respondents.

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Shri A. A. Kumbhakoni with A.P.Kulkarni for the Appellants.

Shri A.B.Sakhare, AGP.

Shri A.Y. Sakhare Sr.Advocate with P.D. Dalvi for Respondents 1 to 3.

Shri S.A.Sawant with Miss Leena Nagavekar for Respondent No.4.

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**CORAM : D. G. DESHPANDE,J.**

**DATE : 20TH JUNE, 2005**

**P.C. :**

1. Heard Advocates for the Appellants and Respondents.

2. This appeal is against the order of remand. The Respondents contend that in 1988 some of the Appellants tried to register a Public Trust in respect

of the same property. That attempt was not successful. Now all the temples of Western Maharashtra are under the control of Western Maharashtra Devasthan Sammittee constituted by the Government under the Bombay Public Trust Act and this temple in the present case, is also under the control of the said Sammittee i.e. Respondent No.4. However, the case of the Appellants is that there was a registered Trust and its order of cancellation was wrong. In fact the order of remand is most proper because in the circumstances, which of the two Trusts should control and manage this Public Trust is a question that can be decided only after the enquiry as contemplated by the impugned order. Therefore, in the circumstances of the case, the order has to be maintained.

3. So far as the interim arrangement is concerned, looking to the rival and conflicting claims of the Appellants and Respondents 1,2,3 & 4; the Dy. Charity Commissioner, Kolhapur before whom the matter go back pursuant to the remand order, will hear the parties and make proper orders for interim arrangement.

4. The enquiry as contemplated by the impugned order after remand, will be completed in any case within 9 months and the interim arrangement of the Dy. Charity Commissioner will be continued till then. Dy. Charity Commissioner to decide the interim arrangement

within six weeks of the appearance of the parties before him. Parties to appear before the Dy. Charity Commissioner, Kolhapur on 4th of July, 2005. No further notice will be necessary to the parties by the Dy. Charity Commissioner in this regard.

20.06.2005 (D.G. DESHPANDE,J.)

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